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***Governmental Relations Department
City of San Diego***



To: Honorable Mayor & Members of the Committee on
Rules, Finance & Intergovernmental Relations

From: Andrew Poat

Date: January 28, 2005

Re: 2005 Legislative Priorities

This report is the first of three by which the City will establish its 2005 legislative program. It proposes authorization for:

1. State legislative initiatives
2. Federal legislative initiatives

Background

This year, the City of San Diego will be establishing a three part program related to State and Federal government:

- Legislative proposals for State & Federal government
- Budget and appropriations proposals for State & Federal government
- Legislative guidelines by which City positions on legislative and regulatory proposals are governed

The Governmental Relations Department (GRD) has made it a priority to develop more detailed legislative priorities, address funding issues, and rewriting the legislative guidelines to better reflect the views and priorities of the Council. In order to accomplish these tasks, and to afford the Council a better opportunity to understand the specific elements of each proposal, we are dividing the adoption of this program into three parts:

State and Federal Legislative Priorities
Budget & Appropriation Priorities
Legislative Guidelines

February, 2005
March, 2005
March, 2005

Executive Summary of Legislative Proposals

More detailed information on these 8 proposals appears behind the corresponding tab.

COMMUNITY & ECONOMIC DEVELOPMENT

Proposal 1: Renewal Community Boundaries

Issue: Amendment to Federal boundary required (expanding the City's Renewal Community bounds into City Heights)

Proposed Solution: Federal Legislation

Advocate: Council Member Toni Atkins

Lead Department: Community & Economic Development

Support Departments: Governmental Relations

Success: Adoption of clarifying legislation

ENERGY

Proposal 2: Net Metering

Issue: Pursue energy independence through self-generation of electrical energy using renewable resources

Proposed Solution: Legislation to increase cap on net metering connections

Advocate: City, SDG&E

Lead Department: GRD & ESD

Support Departments:

Success: Adoption of legislation increasing net metering cap

MUNICIPAL OPERATIONS

Proposal 3: Sales Tax on Jet Fuel

Issue: Loop holes exist in the current in situs distribution of sales tax on jet fuel.

Proposed Solution: Close the loop holes by distributing sales tax based on point of delivery, not the location where the sale took place.

Advocate: Financial Management

Lead: Financial Management

Support Departments: Governmental Relations

Success: Adoption of legislation

NEIGHBORHOOD SERVICES

Proposal 4: Restoration of Park Funding: State Controller Rescission

Issue: Controller rescinded funding for 14 City park projects under contract

Proposed Solution: Legislation to clarify length of contracts consistent with City's contracts with State Parks – or Controller rescinds his previous action and honors grants

Advocate: Park and Recreation

Lead: Park and Recreation Department

Support Departments: Governmental Relations

Success: Re-funding of \$2,064,067 in contracted funds for 14 City park projects.

PUBLIC SAFETY

Proposal 5: School Zone Fines

Issue: Allow City to double traffic fines in school zones with revenues directed to school safety programs

Proposed Solution: Legislation to include San Diego in the Pilot Program

Advocate: Councilman Madaffer

Lead: Police Department

Support Departments: Governmental Relations

Success: Adoption of Legislation

Proposal 6: Nuisance Properties

Issue: The City is limited in their ability to affect the siting or operation of mini-dorms, Sober Living Facilities and other nuisance properties due to state and federal laws.

Proposed Solution: Legislation to improve the City's ability to further regulate these properties.

Advocate: Councilman Madaffer

Lead: Neighborhood Code Compliance Department

Support Departments: Governmental Relations

Success: Adoption of Legislation

SOLID WASTE

Proposal 7: Solid Waste: Miramar Height Increase

Issue: To extend the life of the Miramar Landfill, a 60 ft height increase is being sought by the City

Proposed Solution: Reach agreement with Department of Defense, then approval by Congress – perhaps annual Defense Authorization Bill (March/April)

Lead: Environmental Services (Developing calendar)

Support Departments: Governmental Relations

Success: Adoption of legislation

WATER

Proposal 8: Four Reservoir Intertie Feasibility Study

Issue: Need to maximize available water storage and improve water supply reliability

Proposed Solution: Co- Sponsor legislation with the Sweetwater Authority authorizing a \$3 million federal feasibility study to design and construct a four reservoir intertie system for the purposes of improving the water supply reliability and water yield of San Vicente, El Capitan, Murray, and Loveland Reservoirs in San Diego County

Lead Department: Water Department

Support Department: GRD

Success: Passage of legislation



Renewal Community Continuous Border

Lead Department: Community and Economic Development

Background

- *What governmental functions are at issue?*

The City of San Diego has received federal Renewal Community (RC) designation. This program provides federal income tax incentives for investment in older neighborhoods with small business properties, making the business community a key partner in inner city revitalization. The designation has had a powerful impact in stimulating new investment and job creation in areas that have historically experienced disinvestment and blight.

- *Why is legislation required?*

A key neighborhood that was included in the City's application for RC designation was disqualified for a technical reason. The census tracts in this neighborhood were excluded because they are separated from the rest of the RC by a small gap, violating the RC law's requirement of a "continuous boundary."

The excluded neighborhood, City Heights, encompasses a third of the application area's population and is an area of poverty, unemployment, distress, and crime.

City staff has requested HUD adopt the census tracts as was done under City's former Enterprise Community designation despite a similar boundary requirement in the Enterprise Community law. HUD staff declined that request and has subsequently stopped responding to City correspondence.

- *How would the proposal permit the City to perform more effectively?*

Additional federal tax incentives will be available to six census tracts in the City Heights community of San Diego.

These census tracts clearly meet the eligibility criteria. The City of San Diego, HUD, and philanthropic organizations have focused over \$200 million in revitalizing City Heights in recent years. Conditions have improved greatly as a result of those investments. But the neighborhood still needs more business involvement.

Proposal

- *Provide specific amendment language you seek*

Amend Sec. 1400E of the Internal Revenue Code as follows:

SEC. 1400E. DESIGNATION OF RENEWAL COMMUNITIES.

(c) Area and Eligibility Requirements-

(1) IN GENERAL- The Secretary of Housing and Urban Development may designate a nominated area as a renewal community under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

(2) AREA REQUIREMENTS- A nominated area meets the requirements of this paragraph if--

(A) the area is within the jurisdiction of one or more local governments,

(B) the boundary of the area is continuous (provided, however, that if the nominated area includes census tracts that were previously designated as an Empowerment Zone or an Enterprise Community, then the continuous boundary requirement shall not apply), and

(C) the area--

(i) has a population of not more than 200,000 and at least--

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater, or

(II) 1,000 in any other case, or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) ELIGIBILITY REQUIREMENTS- A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify in writing (and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification) that--

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1 1/2 times the national unemployment rate for the period to which such data relate;

(C) the poverty rate for each population census tract within the nominated area is at least 20 percent; and

(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(4) CONSIDERATION OF HIGH INCIDENCE OF CRIME- The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, the extent to which such areas have a high incidence of crime.

- (5) CONSIDERATION OF COMMUNITIES IDENTIFIED IN GAO STUDY- The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, if the area has census tracts identified in the May 12, 1998, report of the General Accounting Office regarding the identification of economically distressed areas.

Strategy

- List likely supporters
City of San Diego; City/County of San Francisco; City of Philadelphia
- List likely opponents
- List possible Sponsors
Senator Diane Feinstein; Congresswoman Susan Davis



Increase Net Metering Allowance

Lead Department: Energy

Background

- *What governmental functions are at issue?*

The City's ability to generate electricity and thereby lowering the amount of electricity purchased from SDG&E.

- *How are these functions performed?*

By installing photovoltaic systems on city-owned property.

- *Why is legislation required?*

A ½ of 1% of the utility's peak demand cap on net metering was established in AB 58. The San Diego region is expected to reach that cap before December 31, 2006.

- *How would the proposal permit the City to perform more effectively?*

Net metering allows full retail cost recovery for installed systems. Without net metering the systems are not cost effective.

Proposal

- *Specify what sections of state law require amendment.*

Section 2827 of the Public utilities Code as amended by Section 11 of chapter 8 of the Statutes of the 2001-02 First extraordinary session paragraph 6 (c) (3)

- *Provide specific amendment language you seek:*

Amend Sec. 2. Section 2827 of the Public Utilities Code, as amended by Section 11 of Chapter 8 of the Statues of the 2001-2002 First Extraordinary Session to read:

Section 2827 (c) after "one-half of 1 percent", insert *for the PG&E and SCE Territories and 50 Megawatts or 1 and one-half percent for the SDG&E territory.*" At the end of the paragraph insert *"The SDG&E allocation will be re-evaluated when interconnected net metering for that territory reaches 40 Megawatts."*

Strategy

- *List likely supporters:*

City of San Diego, SDG&E, SDREO, Vote Solar, Greenpeace



Sales Tax on Jet Fuel

Lead Department: Financial Management

Background

- *What government functions are at issue?*

Sales tax revenue from the sale of jet fuel.

- *Why is legislation required?*

Current law allocates sales and use tax revenue from sales of jet fuel in different ways, depending on where the negotiations for the sale take place, and where the fuel is delivered to the aircraft.

Recently, the City of Oakland and United Airlines (UAL) entered into an agreement intended to shift all local sales and use tax revenue attributable to UAL's purchases of jet fuel for its California aircraft to Oakland. In return for locating a single source purchasing and resale business (United Aviation Jet Fuel) in Oakland, Oakland agreed to grant UAL a business incentive payment equal to 65% of the sales tax received from the sale of jet fuel by UAL's Oakland subsidiary. Although the agreement between Oakland and UAL is inconsistent with the intent of AB 66 (1998), it is legal. Oakland and UAL have simply taken advantage of the requirement that a retailer have more than one place of business in California in order for local sales tax revenue to be allocated to the wingtip. By using only one retailer to sell all of its jet fuel in California, UAL can ensure that all local sales tax revenue generated from its jet fuel sales in California is allocated to the location of that sales office.

Proposal

- *What section of state law requires amendment?*

Section 7205 of the Revenue and Taxation Code

Section 7205 of the Revenue and Taxation Code is amended to read:

7205. (a) For the purpose of a sales tax imposed by an ordinance adopted pursuant to this part, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from those sales shall include delivery charges, when those charges are subject to the state

sales and use tax, regardless of the place to which delivery is made.

(b) (1) In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part shall, subject to paragraph (2), be determined under rules and regulations to be prescribed and adopted by the board.

(2) In the case of a sale of jet fuel, the place at which the retail sale of that jet fuel is consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part is the point of the delivery of that jet fuel to the aircraft, if the principal negotiations for the sale are conducted in this state.

SEC. 3. By June 1, 2005, to the extent possible, the State Auditor shall conduct an audit to examine the state sales and use tax system that shall consider all of the following:

(a) The distribution of sales and use tax revenues to local governments.

(b) An analysis of the application of the sales and use tax on the basis of "point of use" and "point of distribution."

(c) Sales and use tax revenue sharing contracts between corporations and government entities.

(d) An analysis of economic incentives with regard to sales and use tax revenue sharing agreements.

SEC. 4. Sections 1 and 2 of this act shall become operative on July 1, 2005.

Strategy

- *List of Likely supporters:*
Cities of San Francisco, Ontario, Los Angeles, Santa Ana
- *List likely opponents:*
City of Oakland
- *List of likely sponsors:*
TBD



Restoration of Park Funding

Lead Department: Park and Recreation

Background

- *What government functions are at issue?*

Previously awarded state funding for 14 park projects within the City totaling over \$2 million dollars were put on hold by the State Controller. These projects are on schedule to be completed by June 30, 2005.

- *Why might legislation be required?*

The State Controller determined that grant recipients missed the deadline for spending grant funds. The Controller contends the recipients had only three years to expend funds rather than the five years established by the signed contracts with the State Parks Department.

The Controller may reverse his decision based on a recent opinion issued by the Attorney General, upholding the executed five year contracts between the State Parks and local jurisdictions.

If the Controller does not voluntarily change his position, legislation may be required to clarify the timing allowed for expenditure of funds to correspond with the 5 year contract agreements with State Parks.

Proposal

- *What section of state law requires amendment?*

Government Code section 16304

16304. An appropriation shall be available for encumbrance during the period specified therein, or, if not otherwise limited by law, for three years after the date upon which it first became available for encumbrance. An appropriation containing the term "without regard to fiscal years" shall be available for encumbrance from year to year until expended.

An appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created.

As used in this **code** and in every other statute heretofore or hereafter enacted, the term "unexpended balance" shall be construed

to mean "unencumbered balance."

Appropriations for the following purposes are exempt from limitations as to period of availability in any appropriation, and shall remain available from year to year until expended:

(a) Payment of interest and redemption charges on any portion of the bonded debt of the state.

(b) Transfers of money from any fund for the benefit of elementary schools, high schools, community colleges, the University of California, or any interest and sinking fund in the State Treasury.

(c) Money transferred to revolving funds specifically created by law, including, but not limited to, the Architecture Revolving Fund and the Water Resources Revolving Fund.

(d) Appropriations available for the acquisition of real property to the extent that such appropriations have been encumbered by the filing of condemnation proceedings on behalf of the State of California prior to the expiration of the period of availability of the appropriation.

(e) Money transferred to and expendable from funds other than the fund in which originally deposited, pursuant to the provisions of law earmarking or appropriating for expenditure certain classes of revenue or other receipts.

(f) Continuing provisions of law appropriating for specific purposes certain classes of revenue or other receipts, upon their deposit in a particular fund in the State Treasury or upon their collection by an agency of this state.

(g) Appropriations from Fiscal Year 1999-2000 to Fiscal Year 2002-2003 for local assistance, Department of Parks and Recreation.

Strategy

- *List of likely supporters:*
State Parks; Attorney General; League of California Cities; numerous cities, counties and non-profit agencies which stand to lose their state park funding
- *List of likely opponents*
State Controller
- *List of likely sponsors:*
TBD



Vehicles: School Zone Fines

Lead: Councilmember Jim Madaffer
Governmental Relations Department

Background

- *What governmental functions are at issue?*

The City's school traffic safety campaign is designed to help students stay safe as they travel to school.

A tool to help the safety of school children is the doubling of fines for speeding and other related violations in school zones.

- *Why is legislation required?*

In January 2003, the State of California adopted a pilot program in Alameda, Santa Barbara and Ventura counties to permit the doubling or increasing of fines occurring in a specially posted school zone. In order for the provisions of this law to go into effect, a vote of the city council, or the county board of supervisors, as appropriate is required.

For San Diego to adopt more stringent penalties for violations within a school zone, it must be included in the pilot program thereby requiring new legislation.

Proposal

- *Specify what sections of state law require amendment*

Section 45452 of the Education Code

Section 42011 of the Vehicle Code

- Provide specific amendment language you seek

Amend Section 45452 of the Education Code as follows: "(a) The County of Alameda, the County of San Diego, the County of Santa Barbara, the County of Ventura, or any city within any of these counties, ..."

Amend Vehicle code Section 42011 (c) (1) "This section applies only in Alameda County, San Diego County, Santa Barbara County, Ventura County, or in a city in any of these counties, ..."



Nuisance Properties

Lead Department: Neighborhood Code Compliance

Background

- *What government functions are at issue?*
A number of communities within the City of San Diego are home to “nuisance properties”, such as mini-dorms and Sober Living Facilities. Neighborhood Code Compliance is limited in their ability to affect the siting or operation of these facilities due to state and federal laws.
- *Why is legislation required?*
Existing State and Federal law limit the City’s ability to deal with these types of homes.

Proposal

- *What section of law requires amendment?*
TBD

Councilman Madaffer organized a Task Force to review current state, federal and local laws and make recommendations changing those laws to provide the City with additional opportunities to further regulate these properties.

This Task Force is currently engaged in that review and recommendations will be forthcoming.

Strategy

- *List likely supporters:*
Councilman Jim Madaffer
- *List likely opponents:*
TBD
- *List of possible Sponsors*
Assemblywoman Shirley Horton



Height Increase for Miramar Landfill

Lead Department: Environmental Services

Background

- *What government functions are at issue?*

Miramar landfill is expected to reach its capacity in 2012. In order to expand the landfill's capacity and to extend the amount of time the landfill can operate, an agreement with the Marine Corps to permit an increase of 60 feet in the height of the property is being sought.

- *Why is legislation required?*

The City currently leases property from the United States Department of Navy, on which Miramar Landfill is located. In order to obtain the height increase, Congress must approve the MOU between the City and the Department of Defense.

Proposal

- *What section of law requires amendment?*

Once an agreement has been reached between the City and the Marine Corps, the City will be seeking an amendment to the annual Defense Authorization Bill.

Strategy

- *Likely supporters, opponents, sponsors:*



Four Reservoir Intertie Feasibility Study

Lead Department: Water

Background

The San Diego Water Department services 1.3 million customers, including the largest concentration of military bases in the United States. It is one of the ten largest water suppliers in the nation – providing 206 MGD per day. By the year 2030, the City's population and economic growth is projected to increase water demands by about 55 million gallons a day (MGD) or 25 percent over 2002 levels.

The City presently imports approximately 90% of its water supply from northern California and the Colorado River. Local reservoirs owned and operated by the City supply about 10 to 15 percent of need.

In 1993, the Army Corps of Engineers determined that one of the top methods to ensure greater water reliability in San Diego County was to connect isolated reservoirs.

The benefits of connecting four reservoirs, the San Vicente, El Capitan, Murray and Loveland Reservoirs, would be:

- More efficient use of the reservoirs by creating an enhanced integrated reservoir system
- Increase the City's water supply reliability
- Increase the City's ability to efficiently use water at the lowest possible cost
- Increase the City's water storage capability

Proposal

The City to Co-Sponsor legislation with the Sweetwater Authority directing the Secretary of the Interior to conduct a feasibility study to design and construct a four reservoir intertie system for the purposes of improving the water supply reliability and water yield of San Vicente, El Capitan, Murray and Loveland Reservoirs in San Diego County.

The legislation would:

- authorize a \$3 million federal feasibility study of the reservoir intertie project
- Evaluate the operation, delivery and storage components to enhance the overall efficiency and reliability of the system.
- provide for improved water storage in San Diego County

The San Diego Water Storage and Efficiency Act of 2004 will help the City of San Diego and the Sweetwater Authority make maxim use of water we manage by enabling the city to more fully use our region's existing reservoirs.

Strategy

- *List of likely supporters:* SDCWA; Helix Water District; Padre Dam; Otay Water District; Riverview Water District; Lakeside Water District; Military; County of San Diego
- *List of likely opponents:*
- *List possible sponsors:*
Congressman Duncan Hunter